

REMARKS

In the Final Office Action, the Examiner rejected claims 1-29. By the present Response, Applicant amends claims 1, 3, 5-9, 11, 13, 16, 17, 19, 23, 27, 28, and 29 to further clarify the claimed subject matter, and adds new claims 30-40. Upon entry of the amendments, claims 1-40 will be pending in the present patent application. Reconsideration and allowance of all pending claims are requested.

Examiner Interview Summary

Applicant thanks the Examiner for his participation in a telephonic interview with the undersigned representative on July 15, 2005. In this interview, the claims of the present patent application and the prior art of record were generally discussed. Particularly, during the interview, Applicant's representative and the Examiner discussed potential amendments to the claims that more particularly point out and distinctly claim certain subject matter which Applicant regards as his invention. In the interview, the Examiner and Applicant's representative agreed that these proposed amendments were beyond the scope of the Final Office Action mailed March 17, 2005. By the present Response, Applicant amended claims 1, 9, 13, 17, 19, 23, and 27-29 in a manner similar to that discussed. For the reasons discussed in the interview and summarized below, independent claims 1, 9, 13, 17, 19, 23, and 27-29, and their respective dependent claims, are believed allowable over the art of record.

Rejections Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-5, 9-22, 27, and 29 under 35 U.S.C. § 102(b) as anticipated by the Kohls reference (DE 101 50 364). Likewise, the Examiner rejected claims 1, 6-8, 19, 23-26, and 28 under 35 U.S.C. § 102(e) as being anticipated by the Freeman reference (U.S. Patent Publication No. 2003/0144699). In view of the deficiencies of both the Kohl reference and the Freeman reference, Applicant respectfully traverses these rejections.

Legal Precedent

Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Moreover, the prior art reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Accordingly, Applicant needs only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

Omitted Features of Independent Claim 1

Turning now to the present claims, the Kohls and Freeman references fail to disclose each element of independent claim 1. For instance, independent claim 1 recites “a data processing component configured to *generate a first representation* of the set of physiological data in a first format, and to *generate a second representation* of the set of physiological data in a second format, *wherein the second format is a digital format*” (emphasis added). Because the Kohls and Freeman references fail to disclose such an element, the cited references fail to anticipate independent claim 1.

The Kohls reference is directed to reducing the amount of physiological data that is transmitted to an apparatus for checking and analyzing the data through use of video compression codecs, such as any of the MPEG formats, or a vector graphics algorithm. *See* Kohls, paragraphs [0001] and [0022]-[0024]. Notably, the Kohls reference teaches the use of MPEG encoding to create a video version of the physiological data. *See id.* at paragraph [0022]. However, as will be appreciated by one skilled in the art, even though the MPEG codec may digitally compress data, such as a waveform, for transmission, the

resulting video output itself is a “moving-picture,” which is necessarily an analog output. *See id.* Consequently, Applicant respectfully submits that the Kohls reference fails to teach first and second representations of physiological data, in which the second representation is in a digital second format.

Similarly, the Freeman reference is also deficient in the same manner as the Kohls reference. The Freeman reference is generally directed to a system and method for predicting whether efforts to resuscitate a patient will be unsuccessful. *See Freeman*, paragraph [0002]. To this end, the cited reference discloses a patient monitoring system 100 configured to collect physiological data from the patient via sensors 102 and analyze the data to determine whether further resuscitation efforts would be in vain. *See id.* at paragraphs [0031]-[0032]. Applicant respectfully notes that the Freeman reference does not suggest generating representations of physiological data in first and second formats, let alone disclose a digital format for such a representation.

Because the cited references fail to teach “a data processing component configured to generate a first representation of the set of physiological data in a first format, and to generate a second representation of the set of physiological data in a second format, wherein the second format is a digital format,” the Kohls and Freeman references fail to anticipate independent claim 1. As a result, independent claim 1 and its dependent claims are believed patentable over the cited references. Accordingly, Applicant respectfully requests withdrawal of the rejections and allowance of claims 1-8.

Omitted Features of Independent Claims 9, 13, 17, and 27

As noted above, the Examiner rejected independent claims 9, 13, 17, and 27 on the basis of the Kohls reference. However, the Kohls reference fails to disclose each element of these independent claims. For instance, independent claim 9 recites “a plurality of symbols printed on the printable medium, wherein the plurality of symbols is

digitally representative of a set of physiological data" (emphasis added). Independent claims 13, 17, and 27 also recite generating symbols digitally representative of a set of physiological data and printing such symbols. As discussed above, while the Kohls reference generally discusses the compression, transmission, and display of a waveform, Applicant respectfully submits that this waveform is an analog output and is not "digitally representative of a set of physiological data." In view of this deficiency, the Kohls reference fails to disclose each element of claims 9, 13, 17, and 27, and thus fails to anticipate these claims. Applicant, therefore, respectfully requests withdrawal of the present rejection and allowance of claims 9, 13, 17, and 27, and the claims depending therefrom.

Omitted Features of Independent Claims 19, 23, and 28

As also noted above, the Examiner rejected independent claim 19 on the basis of each of the Kohls and Freeman references, and rejected claims 23 and 28 on the sole basis of the Freeman reference. However, these cited references fail to disclose each element of the instant claims. For example, independent claim 19 recites "acquiring a set of symbols from a printed medium with a device, wherein the set of symbols *digitally represents* a set of physiological data representative of one or more physiological parameters of interest" (emphasis added). Independent claim 19 also recites "extracting the set of physiological data from the set of symbols." Independent claims 23 and 28 respectively recite a computer program and means for carrying out the method steps of claim 19. As indicated above with respect to independent claim 9, the Kohls reference fails to teach symbols digitally representative of physiological data or parameters. Applicant respectfully submits that the Freeman reference is similarly deficient. Further, in the interview summarized above, the Examiner indicated that it was his belief that the recited steps could be performed mentally by a user based on the printouts of Kohls and Freeman, i.e. that a user could read the printouts to acquire the printed data and extract the physiological data from the printed data. While Applicant believes the present claims

to be allowable for the reasons provided above, Applicant has attempted to allay the Examiner's concerns by amending the claims to recite that the symbols are acquired from a printed medium via a device. If the Examiner should believe that any further clarification is necessary, Applicant kindly invites the Examiner to contact the undersigned representative to discuss additional clarifying amendments. Even assuming, for the sake of argument, that the Freeman and Kohls references disclose the generation of a plurality of symbols, these references teach neither symbols digitally representative of physiological parameters, nor acquiring such symbols from a printed medium and extracting physiological parameters therefrom. Consequently, these references do not support a *prima facie* case of anticipation. Accordingly, Applicant respectfully requests withdrawal of the present rejections and allowance of independent claims 19, 23, and 28, as well as their dependent claims.

Omitted Features of Independent Claim 29

In the Office Action, the Examiner also relied on the Kohls reference in rejecting independent claim 29. Particularly, the Examiner argued that the computer memory or storage medium 46 of the Kohls reference was a suitable medium for a printout. *See* Office Action mailed March 17, 2005, pg. 8. While Applicant does not necessarily agree with this characterization, Applicant has clarified the subject matter of claim 29 to clearly indicate that the printout includes "a *printable* medium; and means for *digitally* storing a set of physiological data *on the printable medium*" (emphasis added). It is self-apparent that memory 46 of the Kohls reference is not a "printable medium." Further, the Kohls reference fails to disclose digitally storing physiological data on the printable medium. Because the cited reference fails to disclose *any* of the elements of the present claim, the Kohls reference cannot anticipate independent claim 29. Applicant, therefore, respectfully requests withdrawal of the instant rejection and allowance of claim 29.